



Ministry of Housing,
Communities &
Local Government

Review of park homes legislation: call for evidence - part 2

Summary of responses



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Introduction

1. The [Mobile Homes Act 2013](#) made significant changes to the law on park homes and marked the Government's commitment to giving better rights and protection to park homeowners, whilst ensuring that honest professional site owners are not faced with unfair competition from rogue operators.
2. The Government gave a commitment to review park homes law in 2017 and announced a two part review in the form of a Call for Evidence. Part 1 was concerned with wider practices in the park home sector and called for evidence on fairness of charges, the transparency of site ownership and on experience of harassment. A summary of responses was published on 28 November 2017 at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/662587/Summary_of_Part_1_responses.pdf.
3. Part 2 of the call for evidence was also published on 28 November 2017 and closed on 16 February 2018. It sought evidence on how effective local authority licensing has been; how well the procedures for selling mobile homes, making site rules and pitch fee reviews are working; whether fit and proper controls need to be applied in the sector; the appropriate index to be used when carrying out a review; views on the Park Homes Working Group's recommendations on how local authorities can be assisted further in their licensing functions and on experience of the service provided by LEASE.
4. A total of 278 submissions were received;
 - Park Owners/trade bodies - 112
 - Park home residents/ Representative bodies - 105
 - Local authorities - 55
 - Other - 6
5. A summary of responses is set out in sections 1- 4. Not every respondent answered every question and the percentage figures quoted throughout the document represent only the proportion of those who answered that particular question. Where more than one response was received from a respondent, they have been counted as a single response.
6. A Government response to both parts of the call for evidence will be published in the Autumn this year.
7. The Government also welcomes the additional 502 responses received from park home residents asking for the commission paid on the sale of a home to be considered as part of this review. Although this issue was outside the scope of this review, the Government will give it further consideration but separately from this review.

Executive summary

1. Following the introduction of the Mobile Homes Act 2013, the Government carried out a review in 2017 of how effective the legislation has been.
2. **Local authority site licensing** - Local authorities welcomed their new powers but considered that being able to charge licence fees had not provided them with sufficient resources to recover all their enforcement costs. They said that they faced a number of barriers when taking enforcement action including the cost of prosecutions, a lack of resource and legal expertise, a lack of support from councillors and difficulties in communicating with site owners.
3. Overall, residents and site owners did not consider that local authorities had used their new powers sufficiently to tackle the rogues in the sector and not every authority had introduced licence fees by January 2018. Authorities who responded reported that they had issued 47 compliance notices and pursued 8 prosecutions for breach of the licensing conditions since the 2013 Act and noted that outcomes had often been achieved through informal means.
4. **Sale of mobile homes** - Most respondents agreed that the new procedures for selling mobile homes have reduced or eliminated the blocking of sales. There was however evidence that some site owners interfere in the sale of homes and that residents, estate agents and solicitors did not fully understand the procedure.
5. **Site rules** -The process for making site rules had been a success overall but the process had not always been open or transparent. It was felt that the procedure was too long and there was evidence that site rules that had been banned were still deposited with local authorities who have no power to reject them.
6. **Pitch fee review process** -The use of the pitch fee review form had made the process more open and transparent. Many respondents felt however, that the eight page form could be made shorter, more 'user friendly' and simpler to understand. Residents and local authorities favoured the use of the Consumer Price Index (CPI) as the inflationary index for pitch fee reviews while site owners favoured the continued use of the Retail Price Index (RPI).
7. **Fit and proper person test** - Most residents did not think the 2013 Act provided local authorities with sufficient powers and resources to tackle poor management of sites and abuse of residents, and supported the introduction of a fit and proper person test. Site owners and most local authorities disagreed, considering that authorities already had sufficient powers and resources such that the introduction of a test was unnecessary.
8. Most respondents were aware of the Leasehold Advisory Service (LEASE) and had found their advice on the legislation very helpful.

Section 1: Summary of responses - Residents

SECTION A: LOCAL AUTHORITY SITE LICENSING REGIME

Licence fees

1. 46% of the residents said their local authority had introduced an annual licence fee and 56% said their authority had published a fee policy.
2. 80% of residents said that in their view, charging fees had not provided local authorities with sufficient resources to enable them to carry out their functions more effectively. Local authorities still appeared to be understaffed and unable to challenge site owners when they prevented or delayed authorities from taking enforcement action.

Compliance notices

3. The residents were aware of 22 compliance notices issued by local authorities but not all works required had been completed by site owners. Where works were not completed, local authorities seemed reluctant to take any further action or carry out works in default¹.

Licensing offences

4. The residents were aware of 6 prosecutions for breach of licensing provisions which in their view, indicated that local authorities were not enforcing licensing properly.

SECTION B: CONTRACTURAL ARRANGEMENTS

Sale of mobile homes

5. 66% of residents were of the view that the procedures for selling mobile homes had reduced or eliminated the blocking of sales. There was however evidence of some site owners continuing to interfere in the sale process. Examples given included prospective buyers of second hand homes being approached directly by site owners and offered new homes at heavily discounted prices. Some site owners requested additional information to delay the sale or deter the purchaser from buying the home, rather than seeking a refusal order from the Tribunal. In other cases, site owners who had restrictive rules in place (eg no pets), ignored those rules when they sold a new home but enforced them when a home was sold by a resident.

¹ A local authority can enter a site and take the action which was required under a compliance notice if the site owner has been convicted of an offence of failing to comply with the notice.

6. Some residents said solicitors and estate agents were not aware of the sales procedures and sometimes advised potential buyers to contact site owners for information. They had experience of estate agents who passed on the proposed purchaser's details to the site owner or provided purchasers with copies of the statutory selling forms with details of inflated pitch fees already added by the site owner. In other examples, local authorities had attached conditions to site licences relating to the sale of a home which enabled a site owner to interfere in the sale.
7. All procedures had not always been followed because most residents, particularly the elderly, found the process complicated or difficult to understand. Some were also not aware of the new procedure or statutory forms, or were simply reluctant to use the forms or engage the services of agents or solicitors because of the extra costs involved. Residents rarely made complaints when they experienced problems for fear of retaliation, because they could not afford the cost of going to tribunal or felt the local authority would not help.
8. 79% of residents said the process for selling homes could be improved if everyone involved in the process was made aware of their obligations and sale blocking was made a criminal offence. The statutory forms could also be simplified and solicitors and estate agents could be given appropriate training and guidance.
9. 90% of residents had no experience of using the procedure for gifting a home and 66% were aware that the prior notice requirement² did not apply on the second or subsequent sale of a home after 25 May 2013.

Site rules

10. 76% of residents said site owners had made new rules but the process had not always been open or transparent, with some site owners ignoring the procedures and residents' concerns. Some site owners had also used the process to introduce what were considered to be draconian or unreasonable rules, for example not being allowed to use a washing line on a Sunday or having a maximum of 2 caged birds in a home. In some cases, the number of rules had been increased threefold (to up to 60).
11. Residents were concerned that having so many rules added to the express terms of their agreement increased the opportunities for a site owner to terminate their agreement. Also, although some of the new rules were incorrectly worded or on the list of banned rules, local authorities had no power to refuse to publish them. This created difficulties with enforcement or imposed additional costs on residents if they had to go to a tribunal.
12. To improve the process, residents suggested that local authorities should either have some input into the rule making process or when publishing rules on their website, have the power to attach a qualification that the rules contained banned rules. They also said that local authorities should be given powers to intervene in disputes about site rules rather than residents having to go to Tribunal; and that

² A site owner must be notified of the sale of a park home if the existing resident bought or obtained ownership of their park home on or before 25 May 2013.

legislation should also allow residents to apply for rule changes if requested by a majority.

13. It was felt that more information for existing and new residents about their rights would assist them in understanding the requirements. It would also be helpful if there were an option for documents to be sent by email to residents who are unable to receive them electronically.

Pitch fee review form

14. 75% of residents said the use of the pitch fee review form had made the process more open and transparent but they continued to face challenges including site owners not using the forms or completing them incorrectly. Residents said the process could be improved by making the form shorter and more 'user friendly'.

Pitch fee review inflationary index

15. 96% of residents strongly favoured the use of CPI because most are retired, on limited incomes and receive pensions which increase by CPI. In some cases, licence fees were being charged back to residents through the pitch fee. This was felt to be unsustainable leading to affordability issues given most residents had static or reducing incomes. It was also noted residents in Wales enjoy a CPI increase in pitch fees.

SECTION C: FIT AND PROPER PERSON CONTROL

16. 85% of residents did not think the 2013 Act provided local authorities with sufficient powers and resources to deal with abuse of residents and the poor management of sites. Some suggested the Act was not robust enough and the legal processes for authorities were too cumbersome. Other residents noted that the Act provided authorities with a power, not a duty, to take enforcement action and said this led to a reluctance on the part of local authorities to take action.
17. 92% of residents thought an industry wide fit and proper person test was necessary as some park owners continued to ignore the law or intimidate and harass residents. It was felt that such a scheme had the potential to eliminate some of the bullying and distressing actions imposed on residents by some site owners, while making rogue park owners more accountable for their actions.
18. Residents added that the success of a fit and proper test was dependant on the definition and criteria applied and authorities having a duty to prosecute. They thought that a central register of site owners assessed as fit and proper would also be required. Among the suggestions made by residents of matters that should be taken into account in deciding whether a person is fit and proper, were: a history of bullying, intimidation, harassment; a record of successful criminal prosecutions; police warnings; documented complaints by residents; non-compliance with site licence conditions; compliance notices issued; and evidence of prosecutions for contravention of health and safety legislation. There should also be Enhanced Disclosure and Barring Service and County Court Judgement checks.

19. There was overwhelming agreement by residents that if a director of a company is not fit and proper the company itself should be deemed unfit. There was some concern however that this could be difficult to achieve if the company had a complex ownership structure.
20. Almost all respondents suggested that if the owner is not a fit and proper person to hold the site licence, the local authority should be involved in the management of the site until an independent buyer is found or the council compulsorily purchases the site. Other options suggested were to set up a trust or co-operative ownership scheme made up of park home owners, to manage the site; or to put in place a list of administrators with knowledge of the industry who could be called upon to manage sites until the fit and proper requirement is met.

SECTION D: WORKING GROUP REPORT

21. 85% of residents were aware that their local authority had a list of park home sites in their area and 82% said their local authority shared information with other authorities.
22. 60% of residents said their local authority did not have a dedicated park homes officer. Most of those who said their council had a dedicated officer had not found it beneficial because the officers had other roles which restricted the time they spent on issues related to park homes.
23. For residents, the main barriers to local authority enforcement were a lack of understanding of the legislation and access to specialist lawyers; insufficient resources; and too few experienced officials.
24. To support greater enforcement, residents suggested that the Government should make it mandatory for local authorities to carry out annual site inspections and local authorities should seek residents' views and involve Qualifying Residents' Associations in discussions about site inspections.

SECTION E: LEASEHOLD ADVISORY SERVICE (LEASE)

25. 83% of residents were aware of LEASE and 67% had used or received helpful advice through the website or by phone. 40% of residents had attended a LEASE presentation or training course and most had found the content very useful. 68% of residents said LEASE could provide additional services such as training local authority staff, an online chat service for quick answers to questions and in providing training for the Citizens Advice Bureau, solicitors and estate agents.

Section 2: Summary of responses - Site owners

SECTION A: LOCAL AUTHORITY SITE LICENSING REGIME

Licence fees

1. 72% of site owners said their local authorities had introduced an annual licence fee but noted the amount varied across England.
2. 82% said charging fees had provided sufficient resources to enable authorities to carry out their functions more effectively. Research carried out by the site owners' trade body, The British Holiday and Home Parks Association (BHHPA), indicated that at January 2018, 128(55%) of 233 English councils with residential parks in their area had introduced fees. 105(45%) had no site licensing policy and had not introduced fees which in their view could mean those areas had no widespread problems and therefore additional resources were not required by the authorities.

Compliance notices

3. Most site owners said they worked closely with their local authorities to resolve issues promptly without formal steps becoming necessary. As far as the trade bodies were aware only two compliance notices had so far been issued against their members, one of which had been immediately withdrawn. 84% of site owners said all works required had been completed.

Licensing offences

4. Members of trade bodies had not faced any prosecutions under the 2013 Act. In BHHPA's view, the barriers confronting local authorities in prosecuting for licensing breaches are a lack of understanding by officers of the complex licensing regime and an absence of evidence to bring a successful prosecution. Difficulties also arose for local authorities where they had set inappropriate licence conditions.
5. It was felt that the main barrier to councils tackling poor operators was skills related and site owners suggested that a lead local authority should be established to provide expert advice to other local authority officers to ensure consistency and to increase expertise and efficiency.

SECTION B: CONTRACTURAL ARRANGEMENTS

Sale of mobile homes

6. 83% of site owners said the procedures for selling mobile homes had reduced or eliminated the blocking of sales. This was evidenced by the absence of any court or tribunal finding and the strength of the second-hand private sales market.

7. However, the procedures had not always worked well because of a lack of understanding of the procedures and the inaccurate completion of forms. Some buyers, sellers and professional advisers failed to use all or some of the forms. Site owners also expressed concern that the 'new agreement'³ procedure could lead to buyers purchasing an unsuitable home and suggested that the Schedule 2⁴ notice should be retained to protect buyers and the community on the park.
8. Suggestions of how the process could be improved included having reminders in all the required documentation to emphasise the importance of providing accurate and complete information; and for prospective buyers to take the appropriate professional advice in order to understand their obligations in advance of the purchase. 58% of site owners had no experience of using the procedure to gift a home. 86% were aware that the requirement to give prior notice of a sale to a site owner did not apply on the second or subsequent sale of a home, after 25 May 2013.

Site rules

9. 99% of site owners confirmed that they had made new rules and thought the new regulations and procedures had been a success.
10. Some of the challenges experienced included the inability to extend consultation or response periods even by agreement, and the disproportionate time and expense taken in the appeal procedure. They said that some authorities appeared to be unaware of the processes or their obligations when rules were deposited with them. The procedure was felt to be long and cumbersome and created an overwhelming administrative and cost burden on site owners.
11. 45% of site owners said the process could be improved by limiting the right to bring an appeal to the Qualifying Residents' Association or to a suitable percentage of homeowners (perhaps 10%). They supported the introduction of guidance to clarify the role of local authorities and the streamlining of the process to reduce duplication and administration costs.

Pitch fee review form

12. 70% of site owners said the use of the pitch fee review form had made the process more open and transparent. However, they noted that a number of Tribunal decisions showed that some residents were opposing reviews without valid reason, thus obliging site owners to make applications to the Tribunal each year to seek a determination of the pitch fee.

³ A site owner must be notified of a sale of a park home if the existing resident bought or obtained ownership of their park home on or before 25 May 2013. Where an agreement was made on or after 26 May 2013 or was made before that date but has been assigned to a new resident on one or more occasions since 25 May 2013, the mobile home may be sold without the need to notify the site owner.

⁴ The buyer and seller are required to complete a *Notice of Proposed Sale* form and give it to the site owner, confirming that the buyer complies with the site rules in particular any rules about pets, parking and the age of residents

13. 86% of site owners said the process could be improved by making the form shorter. They thought that the deadline to apply to a Tribunal should be extended from three to six months to give applicants more time to gather relevant details and avoid unnecessary proceedings.

Pitch fee review inflationary index

14. All site owners favoured the use of RPI in pitch fee reviews; they felt it better reflected park management costs and that a move to CPI would compromise the ability to maintain parks.
15. 94% of site owners said changing the measure will have an impact on the costs of site management and would be likely to cause a significant reduction in pitch fee incomes over time. Site owners reported that in Wales, where the measure was changed to CPI from RPI by the Mobile Homes (Wales) Act 2013, the reduction in income was having a bearing on sites' ability to carry out the non-essential maintenance, and that costs are running ahead of income.

SECTION C: FIT AND PROPER PERSON CONTROL

16. 88% of site owners said the 2013 Act provides local authorities with sufficient powers and resources to deal with poor behaviour towards residents and the poor management of sites. They noted that many authorities had failed to set fee policies and where they had, the range showed significant inconsistencies in approach between local authorities.
17. Site owners thought the evidence suggested that site licence breaches were confined to a small number of poor operators and did not support a case for imposing additional regulatory burdens on responsible park operators, who they noted were mainly micro and small businesses. The trade bodies felt that local authorities should be focused upon the small number of problem operators using the extensive powers already at their disposal, rather than administering a 'fit and proper person control' across all parks.
18. 70% of site owners thought additional requirements such as a fit and proper person test were not necessary and would result in responsible park operators facing the cost and uncertainty of an additional regulatory burden. They noted that since fit and proper person controls came into force in Wales in 2014, all 88 Welsh parks had been deemed fit and proper which strongly suggested that the control was not effective in tackling problem operators.
19. Site owners suggested that any additional requirements to help deal with remaining problems in the sector should be focused on providing greater education and training for local authority officers to enable them use their existing powers. A review of existing measures and their application was a more cost effective and pragmatic approach to dealing with rogue behaviour in the sector.

SECTION D: WORKING GROUP REPORT

20. 96% of site owners were aware that their local authority had a list of park home sites in their area. 60% said their local authority had a dedicated park homes officer and 75% said their authority found the guidance published by MHCLG helpful.
21. Site owners suggested that the main barrier to local authorities in tackling poor operators is skills related. They called for the establishment of a Lead Authority for other local authority officers to refer to for expert advice and to ensure a consistent approach in dealing with poor operators.

SECTION E: LEASEHOLD ADVISORY SERVICE (LEASE)

22. 82% of site owners were aware of LEASE but 73% had not used or received advice from them. They suggested that LEASE could provide additional services such as serving as a Lead Authority to support councils in their site licensing role and compiling evidence relevant to the transfer of site licences.

Section 3: Summary of responses - Local authorities

SECTION A: LOCAL AUTHORITY SITE LICENSING REGIME

Licence fees

1. 93% of responding local authorities had introduced an annual licence fee and published a fee policy. 60% said charging fees had not provided them with sufficient resources to enable them carry out their functions more effectively because some of those resources had to be allocated to sites outside the fee charging regime. The costs incurred in implementing a fee policy and dealing with individual sites was also far greater than could be recovered by charging a reasonable fee.
2. 90% of authorities said they had not been able to recover all their enforcement costs because of additional non-recoverable costs incurred in dealing with appeals complaints and freedom of information requests. While informal measures often achieved the desired outcomes, local authorities had to bear any costs involved in the process as they were unable to claim those costs back from the site owner.

Compliance notices

3. Responding local authorities had issued a total of 47 compliance notices to date but reported that all works required had not been completed by the site owner. Challenges faced when preparing and issuing compliance notices included difficulties in communicating with and obtaining information from site owners and some site owners appealing every notice issued. The process was also felt to be long and complicated. Another barrier for authorities was the cost of carrying out works in default⁵ and potential problems with recovering their expenses.
4. They said that the process could be improved if works in default could be undertaken following the expiration of a compliance notice rather than after the site owner had been convicted for failing to comply with the notice. Local authorities suggested the Government's Model Standards 2008⁶ should be updated and additional enforcement guidance, model templates for compliance notices and guidance on legal process made available to ensure consistency in approach. It was also thought that the process around compliance notices should be aligned with housing enforcement duties with emphasis on ensuring that the remedial action identified is addressed without delay.

⁵ See note 1.

⁶ Under the Caravan Sites and Control of Development Act 1960 the Secretary of State may from time to time specify model standards with respect to the lay-out and the provision of facilities, services and equipment for caravan sites or particular types of caravan site.

Licensing offences

5. Local authorities said they had pursued eight prosecutions for breach of licensing conditions. Most authorities had not taken any action since the 2013 Act came into force largely because of the good working relationships they had with site owners. The barriers faced by local authorities in prosecuting for licensing breaches were the cost of prosecutions, a lack of resources and legal expertise and a lack of support from councillors. Other barriers were vexatious complaints by site owners and the reluctance of residents to provide evidence.
6. Authorities suggested that some breaches of licence conditions may not be severe enough to warrant criminal sanctions. In such circumstances a civil penalty as introduced under the Housing and Planning Act 2016, may be more appropriate.

SECTION B: CONTRACTURAL ARRANGEMENTS

Sale of mobile homes

7. 97% of local authorities said the procedures for selling mobile homes had reduced or eliminated the blocking of sales. Some site owners were however still interfering in sales either through the support of some letting agents, or by harassment and threatening behaviour. They thought that there was a lack of understanding about the sale process with prospective purchasers not seeking professional advice before buying the home.
8. 90% of authorities said the process could be improved if it were made a legal requirement to instruct solicitors and if stronger sanctions were imposed on site-owners who interfered in private sales.
9. 94% of authorities had no experience of using the procedure to gift a home and 76% were aware that the prior notice requirement did not apply on the second or subsequent sale of a home and assignment of an agreement after 25 May 2013⁷.

Site rules

10. 36% of local authorities said site owners had made new rules however the process had not always been open and transparent. Some residents had for example not been aware of the procedure or that the rules, once made, would form part of the express terms of their written agreements.
11. Authorities said that the biggest challenge they faced with the new process was the requirement to accept and publish rules deposited with them, but without any powers to challenge any incorrectly made or banned rules.
12. 95% of local authorities thought the process could be improved by making it simpler and adding an option for paperwork to be circulated by email. As residents also expect rules published on the local authority's website to be legal, authorities should

⁷ See note 2.

have a right to refuse to publish any improperly made rules deposited with them, require proof that the consultation process was carried out correctly and also be able to propose amendments to site rules. They thought that residents should be given the opportunity to call for a review of, or amendment to, the site rules and they should also be made more aware of the site rules process.

Pitch fee review form

13. 87% of local authorities said the pitch fee review form had not made the process more open or transparent. They reported that some site owners did not seem to understand the process, had simply increased pitch fees by RPI without carrying out a review, or had added extra costs under the heading of 'other services'.
14. 90% of local authorities suggested the process could be improved by raising awareness among site owners, prohibiting variable service charges in addition to the pitch fee and removing the reference to "or other services supplied by the site owners" in the written agreement.

Pitch fee review inflationary index

15. 93% of local authorities thought the appropriate index to be used for pitch fee reviews should be CPI to reflect the fact that many residents are on benefits or fixed incomes. However, they conceded that CPI would be likely to generate lower pitch fee increases and any reduction in pitch-fee income could result in some site owners leaving the industry. Most local authorities thought changing the measure would not have a significant impact on the costs of site management.

SECTION C: FIT AND PROPER PERSON CONTROL

16. While the 2013 Act had given local authorities better enforcement powers, most did not think the Act gave them sufficient powers and resources to deal with poor behaviours towards residents or the poor management of sites.
17. 37% of local authorities said additional requirements such as a fit and proper person test were necessary. If introduced, there would need to be a national data base for recording prosecutions and robust requirements would need to be placed on applicants. Clear national guidance for authorities with defined standards against which the tests would apply, would also be required.
18. 63% of authorities did not however think a fit and proper person test was necessary. They considered that a better option would be to tighten the definition of the existing suitability tests and introduce recognised standards against which site owners could be assessed. They also thought that a fit and proper scheme might be problematic; licences could be transferred to other directors or "shell companies" be set up. There would also be resource implications for local authorities as well as potential data protection issues in relation to collating and holding site owners' information.
19. Suggestions by local authorities of matters that should be taken into account in deciding whether a person is fit and proper included enhanced DBS checks, county court judgments, contraventions of housing law and whether the applicant had adequate finance to be able to manage the site. It would be essential to have a very

clear definition of fit and proper and if directors of a company are found not to be fit and proper the company should be deemed unfit.

20. In relation to arrangements that should be put in place, some authorities suggested that if the owner is not deemed to be a fit and proper person, they should be given time to find an alternative licence holder. If they were unable to do so, the council might take on the management of the site or appoint a suitable third party. Other options suggested were for the site to be sold on the open market, compulsorily purchased by the local authority, or residents enabled to employ a manager.

SECTION D: WORKING GROUP REPORT

21. All local authorities said they had a list of park home sites in their area and most shared information with other licensing officers either on request, through advisory groups or through the Site Licensing Officers' Knowledge Hub. Some authorities had concerns about breaching data protection rules and said they would welcome guidance and training on what information could be shared.
22. 71% of authorities had dedicated park homes officers however, a lack of resources meant they were not working solely in this area. For some authorities, the small number of sites in their areas did not justify having a dedicated officer.
23. Training received by local authorities on park homes legislation has mostly been through the Institute of Licensing, the Chartered Institute of Environmental Health or LEASE. 98% of authorities had generally found the guidance published by MCHLG helpful.

SECTION E: LEASEHOLD ADVISORY SERVICE (LEASE)

24. 96% of local authorities were aware of LEASE and most said they had used or received advice from LEASE by phone or through the website. Most had found it very helpful but would welcome written responses to queries which could be relied upon when considering or taking enforcement action.
25. 84% of authorities suggested that LEASE could provide additional services such as training for local authority officers, maintaining a register of park home tribunal decisions and where necessary, providing legal representation for residents who are unable to pay for legal assistance. LEASE could also provide specific enforcement advice for councils, collate enforcement actions taken by local authorities and offer some form of alternative dispute resolution or independent mediation service to reduce the need to go to Tribunal.

Section 4: Other responses

SECTION A: LOCAL AUTHORITY SITE LICENSING REGIME

Licensing fees

1. Respondents said that many local authorities had not published a fee policy or were late in doing so. They noted that a key challenge for local authorities in issuing compliance notices and carrying out enforcement was that some sites had complex company structures. This made it difficult for authorities to determine who to issue notices to or take enforcement action against.

Licensing offences

2. Respondents said that licensing was a significant and arguably growing area of concern for authorities. In 2017/18, 30% of enquiries from local authorities were related to licensing compared to 24% and 29% in 2016/17 and 2015/16 respectively.
3. They said that barriers confronting local authorities in prosecuting for licensing breaches included a lack of financial and human resource; a lack of will to act on the part of some local authorities; and the inability to obtain required evidence for prosecutions from residents because they felt intimidated about coming forward.

SECTION B: CONTRACTURAL ARRANGEMENTS

Sale of mobile homes

4. The number of enquiries received by LEASE regarding sale blocking had reduced from 5% in 2015/16 to 2% in 2017/18. The practice had however not been eliminated entirely and there had been several recent reports of site owners contacting prospective buyers viewing a resident's home to offer them an alternative.
5. It was noted that the procedures had not always been followed correctly or did not work as intended. In one example, a prospective buyer was given a blank written statement to read by the site owner, but was then given a different agreement to sign. Even where the correct procedure was followed and all the required forms and information had been provided, problems still arose where one or more of the parties involved did not have sufficient knowledge of park homes sales legislation.
6. Respondents suggested that the process could be improved by making it a requirement that estate agents provide information on the process of buying a park home and a link to the LEASE website. Buyers and sellers might also seek independent legal advice, and legal professionals receive mandatory training in park homes law.

Site rules

7. Respondents said that site rules accepted and published by local authorities sometimes contained banned rules as there was no obligation on local authorities to check site rules before they are lodged. This sometimes led to disputes and the challenge for residents was that they had to seek a determination at the Tribunal. Respondents suggested that the process could be improved if local authorities were required to check the rules for compliance before they are lodged and have legal effect.

Pitch fee review form

8. Respondents said the use of the pitch fee review form had made the process more open and transparent. They noted that some site owners still did not follow the process correctly.

Pitch fee review inflationary index

9. Respondents noted the affordability impact of the higher rate of RPI on the majority of park home owners who are retired and on fixed or low incomes. Many residents' pensions, including the basic pension, are uprated by CPI which is the measure of inflation used in the triple lock guarantee. Respondents supported a move to CPI following the announcement that business rates will rise in line with the lower CPI from April 2018 and also because pitch fee increases are limited to CPI in Wales.

SECTION C: FIT AND PROPER PERSON CONTROL

10. Respondents said the enforcement process appeared to be ineffectual in some cases, perhaps due to insufficient powers, lack of resources or lack of will on the part of local authorities. They added that a fit and proper person" test would raise standards in the sector and improve the quality of site management.
11. Respondents listed a number of matters that should be taken into account in deciding whether a person is fit and proper' including: unspent convictions for offences involving fraud, violence, drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003; contravention of housing law; enhanced DBS (Disclosure and Barring Service) checks; and County Court judgements.
12. To make a fit and proper test more rigorous, individuals or companies representing the site owner should be taken into account and held accountable. Respondents also suggested that a database of those assessed to be fit and proper would be required and local authorities given appropriate resources and support to take over management of the site or arrange for the appointment of an interim manager where a site owner is not deemed fit and proper.

SECTION D: WORKING GROUP REPORT

13. Respondents thought the main barriers to local authority enforcement are a lack of dedicated officials, access to specialist lawyers and sufficient funding and a lack of training. Fee based training previously provided by LEASE is no longer available and training funds for local authorities for park home matters appear to be very limited.

Annex A: Questions

SECTION A: LOCAL AUTHORITY SITE LICENSING REGIME

Q1. Has the local authority introduced an annual licence fee? If yes, has the local authority published its fee policy?

Q2. For local authorities charging fees, has this provided sufficient resources to enable the authority to carry out its functions more effectively? If not, why?

Q3. Has the authority been able to recover all its enforcement costs? If not, why.

Compliance notices

Q4. How many compliance notices has the local authority issued to date?

Q5. Have all works required been completed by the site owner?

Q6. What challenges did the authority experience in preparing and issuing the compliance notices? Can the process be improved and if so, how?

Licensing offences

Q7. How many prosecutions for breach of the licensing provisions has the local authority pursued? Please provide details.

Q8. What do you think might be the barriers confronting local authorities in prosecuting for licensing breaches?

SECTION B: CONTRACTURAL ARRANGEMENTS

Sale of mobile homes

Q9. Have the procedures for selling mobile homes reduced or eliminated the blocking of sales?

Q10. How well did the procedures work? Were all the procedures followed, including the use of the required forms and provision of all relevant information?

Q11. Are there ways in which the process can be improved and if so how?

Q12. Is there experience of using the procedure to gift a home?

Q13. Are you aware that the prior notice requirement to the site owner and their right to apply to a tribunal for a refusal order does not apply to a sale of a home and assignment of agreement on the second or subsequent sale following the commencement of the relevant provision of the 2013 Act?

Site rules

Q14. Did the site owner make new rules and if so was the process open and transparent?

Q15. What challenges were faced by residents, site owners or local authorities with the new process?

Q16. Are there ways in which the process can be improved and if so how?

Pitch fee review form

Q17. Has the use of the pitch fee review form made the process more open and transparent?

Q18. Are there ways in which the process can be improved and if so how?

Pitch fee review inflationary index

Q19. Do you think the appropriate index should be RPI or CPI? Please give your reasons.

Q20. Do you think changing the measure will have an impact on the costs of site management? If so please explain.

SECTION C: “FIT AND PROPER PERSON” CONTROL

Q21. In your view, does the 2013 Act provide local authorities with sufficient powers and resources to deal with abuse of residents and the poor management of sites?

Q22. Are additional requirements such as a “fit and proper person” test necessary and if so would the requirement help deal with the problems in the sector effectively?

Q23. What do you think the practical effect and consequences would be of introducing an industry wide “fit and proper” test?

Q24. What matters should be taken into account in deciding whether a person is “fit and proper”? If directors of a company are not “fit and proper” should the company be deemed unfit?

Q25. What arrangements should be put in place in relation to the site if the owner is not a “fit and proper” person to hold the site licence and manage it?

SECTION D: WORKING GROUP REPORT

Q26. Does your local authority have a list of mobile home sites in its area?

Q27. Does your local authority share information with other authorities and if so how? If not, what are the reasons for not doing so?

Q28. Does your local authority have a dedicated mobile homes officer and if so has this been beneficial? If not, why?

Q29. What training programmes (internal or external) are currently available to local authorities? Are there any other training programmes that you would find helpful?

Q30. Did the authority find the guidance published by DCLG helpful? If not, why?

Q31. What do you think are the main barriers to local authority enforcement in the sector and how could Government support greater enforcement action?

SECTION E: LEASEHOLD ADVISORY SERVICE (LEASE)

Q32. Are you aware of LEASE?

Q33. Have you used or received any advice from LEASE? If so, how did you receive it (e.g. website or helpline) and was the advice given in a helpful way?

Q34. Have you attended a presentation or training course delivered by LEASE? If so did you find the content useful or instructive?

Q35. Are there any additional services that LEASE could provide?